IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14807 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)

Versus

NARMADA SHANKER K DAVE C/O SECRETARY - Respondent(s)

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Appearance :

MR HARDIK C RAWAL for Petitioner No(s).: 1.

NOTICE SERVED BY DS for Respondent No(s).: 1.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 17/08/2005

ORAL JUDGMENT

Though served, nobody appears on behalf of the respondent. Under the circumstances, this Court has no other alternative but to decide and dispose of the Special Civil Application on merits, ex-parte.

2. Rule. In this petition under Article 226/227 of the Constitution of India, the petitioner Gujarat State Road Transport Corporation has challenged the legality and validity of the judgment and award passed by the Industrial Tribunal, Ahmedabad dated 16.9.2004 in Reference (IT) No. 102 of 1997.

3. The grievance which is voiced in the present Special Civil Application is that the Industrial Tribunal has held that the departmental inquiry is not legal and valid, and though, in the written statement itself there was a request made on behalf of the petitioner to allow them to prove the misconduct by leading the evidence before the Tribunal in case it comes to the conclusion that the departmental enquiry is not legal and valid, more particularly in Para No. 15 thereof the Tribunal has observed that no permission is sought for and therefore it is not granted.

4. Shri Hardik Raval, the learned advocate has taken me to the written statement/reply on Page 19 of the compilation in which the petitioner has specifically mentioned in Para 7 that they have hold departmental enquiry against the respondent workman. However if for some reason the Industrial Tribunal comes to the conclusion that the departmental enquiry is illegal and/or invalid in that case they may be permitted to lead evidence and to prove the misconduct before the Tribunal. Still the Industrial

Tribunal observed that no permission is sought for. Under the circumstances, the judgment and award passed by the Industrial Tribunal is required to be quashed and set aside and the matter requires to be remanded to the Industrial Tribunal for allowing the petitioner to lead evidence to prove misconduct before the Tribunal.

5. For the reasons stated hereinabove, the petition succeeds. The judgment and award passed by the Industrial Tribunal, Ahmedabad

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